

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 21, 2004. At the time of the Office Action, Claims 26-34 were pending in this Application. Claims 1-25 are cancelled due to an election/restriction requirement. Claims 26-34 were rejected. Claims 26 and 34 have been amended to further define various features of Applicants' invention. Claims 30 and 32 have been cancelled without prejudice or disclaimer. New Claims 35 and 36 have been added. Applicants respectfully request reconsideration and favorable action in this case.

Election/Restriction Requirement

Pursuant to a telephone conversation between the Examiner and Ed Marshall on August 13, 2004, the Examiner set forth an election restriction requirement of the claimed inventions where Applicants elected to prosecute without traverse Claims 26-34. Accordingly, Applicants hereby cancel Claims 1-25 without prejudice or disclaimer. Applicants reserve the right to file one or more divisional applications for the subject matter of Claims 1-25.

Rejections under 35 U.S.C. § 112

Claim 34 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended Claim 34 to overcome these rejections and respectfully request full allowance of Claim 34 as amended.

Rejections under 35 U.S.C. §103

Claims 26-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,068,305 issued to Gary L. Myers et al. ("Myers") in view of U.S. Patent 6,505,095 issued to H. Brock Kolls ("Kolls"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Claim 26 has been further amended to call for various features including, but not limited to, an audit device having a secure application module and the audit device operable to maintain an audit trail of transactions occurring at the vending machine. Neither Myers or Kolls show or teach a vending machine as defined in amended Claim 26. Applicants request withdrawal of all rejections and allowance of Claim 26 as amended.

Claims 27, 28, 29, 31, 33 and 34 are dependent from Claim 26. Since Claim 26 as amended is now deemed allowable, Claims 27, 28, 29, 31, 33 and 34 are allowable.

Information Disclosure Statement

Applicants enclose an Information Disclosure Statement and PTO Form 1449, with a copy of the reference and a check in the amount of \$180.00, for the Examiner's review and consideration.

Petition For Extension Of Time

Applicants respectfully submit herewith a Petition for Three-Month Extension of Time Request, along with a check in the amount of \$510.00 for the required filing fee.

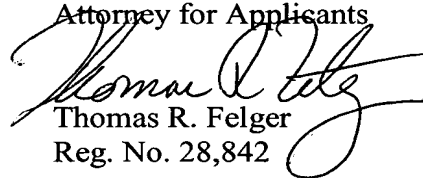
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended and new Claims 35 and 36.

Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2599.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants


Thomas R. Felger
Reg. No. 28,842

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **31625**
512.322.2599
512.322.8305 (fax)

Date: 10 JUNE 2005

Enclosures: Information Disclosure Statement and check for \$180.00 for the filing fee
Petition for 3 Month Extension of Time and check for \$510.00 for the filing fee